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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,197	08/07/2000	Christopher W.B. Goode	DIVA 264	3493
26291	7590	02/20/2004	EXAMINER	
GREGORY RANIERI, MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 02/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/633,197

Applicant(s)

GOODE, CHRISTOPHER W.B.

Examiner

Son P Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: "server complex control method 342" on page 10, line 27, page 11, lines 10, 13, 15 should be changed to – server complex control model 342- as show in figure 3. Appropriate correction is required.

Claim Objections

2. Claim 17 is objected to because of the following:
Claim 17 recites limitation "said server complex partitions are auctioned to said content suppliers" which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Burns et al. (US 5,991,306).

Regarding claim 20, Burns teaches in an interactive information distribution system (200 figure 6) wherein information provider equipment (56) transmits video assets to subscribers 58, 60 via a distribution network (66, 68), information provider apparatus comprising:

a server complex (cache server and CMS) for storing video assets received from content supplier (content servers 52) and transmitting the video assets in response to a control signal (col. 5, lines 19-25); and

a controller (processor, pattern recognizer, scheduler, administrative tool, media loader col. 7, lines 7-12, col. 8, line 1+ and figure 4) , for causing the server complex to transmit the video assets in response to a received request for the video assets, for interacting with content suppliers via a data channel, and for determining an appropriate list of available video assets based upon subscriber usage statistic (col. 9, line 10+).

Regarding claim 21, Burns teaches a content uplink, for receiving content streams from each of the plurality of content suppliers and responsively providing the content streams to the server complex (figure 6).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. (US 5,991,306), and in view of Lewis (US 2003/0040962 A1).

Regarding claim 1, Burns teaches a method comprising:

content provider (52- figure 3) storing content within leased resource (storage 124 and 126 - figure 4, and col. 5, line 65+);

fulfilling subscriber requests for available content (col. 7, line 65 – col. 8, line 40);

generating usage statistics (col. 8, line 41+);

providing the usage statistical to the at least one content provider (col. 11, line 20+);

and adjusting the content stored in the leased resource according to the at least one content provider (col. 10, line 37+). However, Burns does not specifically disclose establishing a resource lease with each of at least one content provider.

Lewis teaches establishing a resource lease (spaces in storage device 14- figure 7) with each of at least one content provider (41-figure 4 and par. 0186+). Therefore, it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns to use the teaching as taught by Lewis in order allow content provider to store content at leased space at service provider thereby improve efficiency in service.

Regarding claim 2, Burns teaches generating service centric data; and adapting service operation according to the usage statistic and the service centric data (see col. 10, line 20+).

Regarding claim 3, Burns teaches generating content centric data (date/time of the request, the subscriber who made the request, and other information – col. 8, line 41+); and providing the content centric data to the at least one content provider (col. 11, line 29+).

Regarding claim 4, Burns in view of Lewis teaches a method as discussed in the rejection of claim 1. Lewis further discloses advertising “sections” or “spaces” or “data boxes” in VPR/DMS 30 are monitored and controlled by both content providers (or VPR/DMS 30 central data base) as well as by end users according to pre-set or negotiable criteria. Advertising “sections”, “data boxes” or “spaces” may be reserved, rented, leased, or purchased from end user, content providers, etc. – paragraph 0186 +). The VPR/DMS is capable of electronically monitoring and logging all rental, purchase, or pay per view transactions as well as end user access operation (i.e.

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playbacks, downloads, etc.) of data programs and products which are copyrighted, patented, licensed or otherwise represent propriety intellectual property. This electronically logged data might then be automatically transmitted or retrieved by content providers or by copyrighted collective organization for collection of licensing fees or other purpose (paragraphs 0207-0209 and 0260). Necessarily, the method comprises remitting compensation to the at least one content provider in response to the usage statistic.

Regarding claim 5, Burns in view of Lewis teaches a method as discussed in the rejection of claim 4. However, neither Burns nor Lewis specifically discloses remitted compensation is offset by the value of the lease. Official Notice is taken that offsetting remitted compensation by the value of the lease is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns and Lewis to use the well-known teaching in the art in order to reduce transaction between providers.

Regarding claim 6, Burns in view of Lewis teaches a method as discussed in the rejection of claim 1. Burns further teaches the leased resource is adapted in response to the usage statistics (the pattern recognizer 116 identify peak times in subscriber traffic and the relation of the peak times of specific requested content. Using the patterns identified by the pattern recognizer 116, the scheduler 118 schedules delivery of the content at a selected time prior to the peak time (col. 9, line 11+).

Regarding claim 7, Burns in view of Lewis teaches a method as discussed in the rejection of claim 6. Burns further teaches the leased resource comprises a memory resource (cache 124 and CMS 126 – figure 4) that is increased in response to the usage statistics (increase specific requested content during peak times – col. 9, line 11+).

Regarding claim 8, Burns teaches a method comprising:
plurality of content provider (52- figure 3) storing content within leased resource (storage 124 and 126 - figure 4, and col. 5, line 65+);
fulfilling subscriber requests for available content (col. 7, line 65 – col. 8, line 40);
generating usage statistics (col. 8, line 41+);
providing the usage statistical to the at least one content provider (col. 11, line 20+);
and adjusting, in response to information provided by the content provider, content stored in the leased resource (col. 10, line 37+). Burns further discloses the time-to-live (TTL) tags are assigned to the content to assist in determining when the content should be refreshed or disposed. The TTL tags can be kept in a separate table of the cache 124 to correlate the tags and their content (col. 10, line 59+). However, Burns does not specifically disclose assigning to each of a plurality of content provider, content management responsibilities for respective service provider resources.

Lewis teaches assigning to each of a plurality of content provider (storage device 14 comprises “section” or “spaces” or “data boxes” for each of the plurality of content

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provider – par. 186+ and figure 7), content management responsibilities for respective service provider resources with each of at least one content provider (41-figure 4 and par. 0186+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns to use the teaching as taught by Lewis in order to easily locate content data of particular provider in storage.

Regarding claims 9-12, the limitations as claimed respectively correspond to the limitations of claims 2-5 and are analyzed as discussed with respect to the rejections of claims 2-5.

Regarding claim 13, Burns teaches an apparatus, comprising:

a server complex (service provider 110) comprising storage devices (cache 124 and CMS 126 figure 4). As one example, the CMS 126 is configured as a disk array data storage system consisting of many large capacity storage disks with video and audio data streams stored digital thereon. The locations of video and audio data streams are kept in a memory map and each video and audio data stream is accessed through pointers to the particular memory location (col. 7, line 1+);

the content supplier (content server 52- figure 2) adapting content, including video assets, stored in storage devices in response to usage data provided by content provider (content server provides content in response to usage pattern received from service provider (col. 8, line 25+). However, Burns does not specifically disclose a

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controller, for distributing video assets, each of the partitions (storage disks) storing video assets provided by a respective content supplier.

Lewis teaches a controller (microprocessor 12- figure 16), for distributing video assets (par. 0190+);

a server complex (storage 14) comprising a plurality of partitions ("sections" or "spaces" or "data boxes" – par. 0186 and figures 9, 16), each of the partition storing video assets provided by a respective content suppliers (41- figures 4, 9, 13);

content downloaded from content providers is stored in the respective partitions in response to selections provided by the controller (par. 153+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns to use the teaching as taught by Lewis in order to easily locate content data of particular provider in storage.

Regarding claim 14, Lewis teaches the content supplier (content providers – figure 6) provision respective server complex partitions according to rules defined by the controller (microprocessor has software programming to control the operation of the processing circuitry and the playback circuitry, wherein the processing may include recording, editing, condensing, rearranging data segments, displaying or other customizing the content – par. 0035+).

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Regarding claim 15, Lewis discloses user can navigate the menu to select a desired option (figures 3A-3I). Apparently, the rules define navigation parameter of the video assets provided by the content suppliers.

Regarding claim 16, Lewis teaches the server complex partitions are leased by the content suppliers ("sections" or "spaces" or "data boxes" may be reserved, rented, leased, or purchased from content providers, broadcasters, etc. par. 0186).

Regarding claim 17, Lewis discloses the "sections" or "spaces" or "data boxes" in storage device may be rented, leased, or purchased from content providers, broadcaster, etc. (par. 186). However, neither Burns nor Lewis specifically discloses server complex partitions are auctioned to content suppliers. Official Notice is taken that auctioning partitions to supplier is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns and Lewis to use the well-known teaching in the art in order to provide a maximize price for the lease.

Regarding claims 18-19, the limitations of the apparatus as claimed correspond to the limitations for the method as claimed in claims 6-7 and are analyzed as discussed in the rejection of claims 6-7.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Whitt (US 6,330,326) teaches dynamic staffing of service centers to provide substantially zero delay service.

Hoarty et al. (US 5,093,718) teaches interactive home information system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son P. Huynh
February 3, 2003


HAI TRAN
PATENT EXAMINER